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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUIT NO. 1510 OF 1984

New Swadeshi Mills of Ahmedabad
Ltd and anr. Plffs.
vs.
Vijay Transport Co.and ors. Defnds.

Mrs. N.D. Motiwala i/b. M/s. Motiwala and Co.
for the plffs.

None for the defendants though served.

CORAM: S.U. KAMDAR, J.

DATE : 8TH AUGUST, 2005.

P.C. :

1. The present suit is filed for the recovery of sum of Rs.1,20,400/- with further interest at the rate of 18% p.a. from the date of the suit till payment and or realisation.

2. In the present suit the defendant is a

transport company. It is the case of the plaintiff that on 19.8.1981 Tata Mills Ltd handed over a consignment for transportation consisting of 56 cartons of Polyester Filament Yarn for safe carriage and time delivery to the 1st plaintiff at Ahmedabad. The 1st defendant issued necessary G.C. Note bearing No. A-74211 dated 8/8/81 accordingly. the suit consignment was insured with the first plaintiff under Insurance Policy bearing No. 202/83/00266/80. The plaintiff paid the necessary freight and octroi charges and handed over the goods to the defendant for transportation. However the said consignment was found damaged and smashed and in a broken condition in the first defendant godown and the goods never reached the first plaintiff. Subsequently survey was carried out by Mr. R.B. Davar who has given a report that the goods have been found in a damaged condition. The plaintiff thereafter issued a notice to the defendant. However the defendant has falsely contended that the goods were in good condition. By further letter dated 1.9.1981 the plaintiff has refuted

the 1st Defendants contention and has filed the present suit after the claim being settled by the 2nd defendant. The present suit is thus filed for the recovery of sum of Rs.1,20,400/- comprising of interest at the rate of 18% on Rs.1,07,458/- which includes carrying charges and other miscellaneous expenses. Though the defendants are served and advocates Mr. T.R. Hegde has filed his vakalatnama there is no written statement on record. Notice was served on the defendants but the notice has come back since the defendants advocate has changed his office. Accordingly I directed to plaintiffs advocate to serve the notice on the parties. The said notice duly served which is taken on record.

3. Matter was on board on 26.7.2005 and on 2.8.2005. The plaintiffs have tendered a compilation of documents which is marked Ex.P.1 colly. In view of the fact that there is no written statement filed by the defendants on record I pass a decree in terms of prayer clause (a). However interest from the date of the suit

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will be restricted to 9 % p.a.

sd/-
